IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6000 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MICRO FINISHES ENGINEERS

Versus

GUJARAT INDUSTRIAL DEVELOPMENTCORPORATION

Appearance:

MR NILESH A PANDYA for Petitioner

MR MB GANDHI for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 14/08/2000

ORAL JUDGEMENT

Rule. Mr MB Gandhi waives service of Rule for the respondents. In the facts and circumstances of the case, the petition is taken up for final disposal today.

2. The facts leading to filing of the petition briefly stated, as averred in the petition, are as under:-

2.1 The petitioner had applied for a plot in GIDC,

Vatva, Ahmedabad. The petitioner was allotted plot No. 485 admeasuring 1000 sq.mtrs. in Phase I in the GIDC estate at Vatva and was also put in possession thereof in 1992. On 17.7.1997, the petitioner was given a notice for returning the plot as the petitioner had not utilized the plot allotted to him. The petitioner, however, applied for extension of time for utilization of the plot. Hence, by order dated 20.7.1997, the petitioner was granted extension upto March, 1998 for utilization of the plot. However, the petitioner was required to pay penalty of a sum of Rs.3,78,000/- for the non-utilization of the plot for all these years. The petitioner deposited a cheque for the said amount in the office of the respondent. In view of the said extension, the petitioner also made an application for transferring the plot in question to M/s JP Industries and deposited the transfer fee of Rs.1,05,500/- on 30.3.1998. The petitioner also obtained a No Due Certificate dated 28.3.1998 from the respondents for the purposes of the aforesaid transfer. On 16.4.1998, the petitioner was required to produce certain documents in connection with the said transfer application. According to the petitioner, it had already submitted the necessary documents.

2.2 In the meantime, the respondents terminated the license agreement which was earlier entered into between the GIDC and the petitioner and followed up it with a notice dated 23.1.1998 for eviction under Section 4 of the Gujarat Public Premises (Eviction of Unauthorized Occupants) Act, 1972 (hereinafter referred to as "the Act"). The petitioner claims to have personally represented his case before the officers of the GIDC, but respondent No. 2 passed order dated 20.3.1998 for evicting the petitioner from the plot in question.

In view of the above order, respondent No. 2 passed another order dated 17.8.1998 under Section 5(2) of the Act and again notice for possession was given on 4.9.1998 under Section 5(2) of the Act.

2.3 The petitioner met the GIDC officers personally and requested them to consider the transfer application in view of the extension which was already granted earlier. Since the respondents persisted in their threats to take over possession of the plot in question, the petitioner filed Civil Suit No. 1301/99 before the City Civil Court, Ahmedabad and prayed for injunction. However, the notice of motion came to be dismissed and the appeal from order also came to be dismissed.

2.4 The petitioner received communicated dated 19.11.1999 from the respondent-GIDC informing the petitioner that the petitioner's application for transfer of the plot in question was under active consideration. In the meantime, the petitioner had applied to Ahmedabad Municipal Corporation for permission to put up construction over the plot in question and had also requested Ahmedabad Electricity Board to give electricity connection. Both the authorities granted the necessary permission. Since the respondents were not considering the petitioner's application for transfer and were persisting with the threats to evict the petitioner, the petitioner filed Special Civil Application No. 285 of 2000 which came to be withdrawn for enabling the petitioner to prefer an appeal against the order of eviction passed under the Act. The said appeal (Civil Appeal No. 16/2000 came to be withdrawn with liberty to file a fresh appeal. So also Civil Suit No. 1301/99 came to be withdrawn on the same line. Ultimately, the petitioner filed Civil Appeal No. 24/2000 against the order of eviction under the Act. The petition also made applications (Exhs. 7 and 8 to the said appeal) in the notice of motion in the said appeal for restraining the respondents from transferring the plot in question in favour of any other party and for other interim reliefs. The City Civil Court dismissed the notice of motion on 8.6.2000 by the order at Annexure "O" to this petition. Hence, the petitioner filed the present petition.

3. While issuing notice in the present petition, this Court granted ad-interim relief restraining the respondents from transferring the plot in question in favour any other party except M/s. JP Industries on condition that the petitioner shall deposit a sum of Rs.3,78,000/- by a Demand Draft before this Court before the returnable date. That condition was complied with and after hearing the parties, this Court passed a further interim order on 26.7.2000 granting further interim relief requiring the respondents to put the petitioner in possession of the plot in question and for returning the materials to the petitioner. The Registry was also directed to pay the amount of Rs.3,78,000/- to the GIDC.

4. At the hearing today, the learned counsel for the parties state that in view of the intervention of this Court through the orders dated 28.6.2000 and 26.7.2000, the disputes between the parties appear to have been resolved. The petitioner has already paid a sum of Rs.3,78,000/- in as much as the petitioner deposited the

said amount before this Court and thereafter a cheque for the said amount has been drawn by the Registry and paid over to the GIDC through the learned counsel for the GIDC. In view of the above, the petitioner has also been put in possession of plot No. 485 admeasuring 1000 sq.mtrs. in GIDC, Vatva Phase II. The GIDC has also handed over to the petitioner the machineries, other goods and materials, which were earlier attached by the GIDC from the above plot.

5. Mr Nilesh Pandya, learned counsel for the petitioner states that the only dispute which now remains to be dealt with is transfer application which was given by the petitioner way back on March 30/31, 1998 alongwith transfer fee of Rs.1,05,000/-. The transfer is sought in favour of M/s J.P. Industries as mentioned in paragraphs 9 and 10 of the petition.

Mr Pandya further states that the petitioner shall withdraw the criminal complaint filed by the petitioner against the officers of the respondent Corporation and that this shall be done by 31.8.2000 and a certified copy showing withdrawal of the complaint shall be handed over to the respondents within one week thereafter.

6. Mr Gandhi for the respondents submits that the respondents shall abide by the orders of this Court and further states that the previous orders dated 28.6.2000 and 26.7.2000 have been complied with by the GIDC and that the petitioner's transfer application shall be considered in accordance with law as the amount of transfer fee was already received earlier on 31.3.1998.

7. In view of the above submissions, this petition is disposed of in terms of the following orders and directions :-

(i) The orders dated 20.3.1998 (Annexure "E"), 17.8.1998 (Annexure "I") and 4.9.1998 (Annexure "I") of the respondents are set aside.

(ii) The order dated 8.6.2000 (Annexure "O") passed by the City Civil Court, Ahmedabad below Exhs. 7 and 8 in the notice of motion in Civil Appeal No. 24/2000 is set aside and the appeal is also treated as infructuous in view of the aforesaid orders.

(iii) Since the petitioner has already been put into possession of the plot in question, and the

petitioner has also been given back the machineries, goods and other materials earlier attached by the GIDC, the other prayers in this behalf do not survive.

(iv) As far as the prayer for transfer of plot in favour of J.P. Industries is concerned, the GIDC shall consider the same in accordance with the relevant rules and regulations as expeditiously as possible and in any case within one month from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

Rule is made absolute in the aforesaid terms.

There shall be no order as to costs.

August 14, 2000 (M.S. Shah, J.)

sundar/-